



MEMORANDUM

Agenda Item No. 8(M)(3)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: May 1, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution declaring the acquisition
of the designated Property known as
Parcel 4 for the People's Transportation
Plan Project entitled improvements
on Old Cutler Road from SW 97th
Avenue to SW 87th Avenue, to be
a public necessity

The accompanying resolution was prepared by the Public Works and Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Lynda Bell.



R. A. Cuevas, Jr.
County Attorney


RAC/up

Memorandum



Date: May 1, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Declaring the Acquisition of the Designated Property Known as Parcel 4 for Right-of-Way Needed for the People's Transportation Plan Project Entitled Improvements to Old Cutler Road from SW 97 Avenue to SW 87 Avenue to be a Public Necessity, and Authorizing the Use of Charter County Transportation Surtax Funds

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution which does the following:

- Declares the acquisition of Parcel 4 required for the road widening, beautification, and right-of-way improvements to Old Cutler Road from SW 97 Avenue to SW 87 Avenue to be a public necessity; and
- Authorizes the County Mayor or the County Mayor's designee and the County Attorney to employ appraisers, expert witnesses, obtain required environmental audits, and to take any and all appropriate actions to acquire the subject parcel in fee simple, either by negotiation, donation, purchase at values established by appraisal together with reasonable attorneys fees, experts fees and cost pursuant to Chapters 73.091 and 73.092 Florida Statutes or eminent domain court proceedings including a declaration of taking as necessary for and on behalf of Miami-Dade County. Proceeds from Charter County Transportation Surtax bond proceeds will be used to fund this Project, therefore, approval by the BCC and the Citizens' Independent Transportation Trust (CITT) is required.

This Resolution is for the acquisition of Parcel 4, needed by the Public Works and Waste Management Department (PWWM) for programmed improvements to Old Cutler Road from SW 97 Avenue to SW 87 Avenue. It is anticipated that the Project will require the acquisition of approximately three parcels, which are being presented for BCC consideration on this agenda. Pursuant to Florida Statute Section 127.02, each parcel must be approved by separate resolution.

Said Resolution is placed for Committee review pursuant to Miami-Dade County Code Section 29-124(f). This item may only be considered by the BCC if the CITT has forwarded a recommendation to the BCC prior to the date scheduled for BCC consideration, or forty-five (45) days have elapsed since the filing with the Clerk of the Board of this item. If the CITT has not forwarded a recommendation and forty-five (45) days have not elapsed since the filing of this item, I will request a withdrawal of this item.

SCOPE

The impact of this Project is countywide; however, it is located within Commission District 8.

FISCAL IMPACT/FUNDING SOURCE

Funding for the right-of-way acquisition, design and construction of this Project is from Charter County Transportation Surtax bond proceeds. This legislative item will be presented to the CITT for review prior to final consideration by the BCC. Funding is programmed within the adopted FY2011-12 Capital

Budget and the index code is CPEPTP608OLD. The index code for the right-of-way acquisition is subject to change; however, any need for additional funds would require further BCC approval.

The total cost of the Project (inclusive of construction, design, and right-of-way acquisition of all parcels) is estimated at \$7,500,000. The anticipated ongoing annual maintenance and operational costs will be approximately \$12,876.92 and \$7,783.06, respectively.

The initial acquisition costs have been budgeted, and no additional fiscal impacts are expected; however, in the event of litigation the ultimate acquisition costs would be subject to ruling by the Court.

TRACK RECORD/MONITOR

PWWM is the entity overseeing this Project, and the person responsible for monitoring this acquisition is Mr. Raul A. Pino, PLS., Chief, Land Development / Right-of-Way Division.

BACKGROUND

PWWM has programmed the construction of Old Cutler Road as part of the People's Transportation Plan Project Entitled Improvements to Old Cutler Road from SW 97 Avenue to SW 87 Avenue. The proposed Project includes roadway expansion, beautification, and improvements to include curb and gutters, a continuous storm drainage system, enhancements to existing shared use paths, enhanced street lighting, signalization, and landscaping. In addition, the Project will also provide for two (2) traffic circles on Old Cutler Road, one replacing the current signalized intersection at SW 87 Avenue, and the second at the intersection with SW 97 Avenue.

The area to be acquired by Miami-Dade County is necessary for the proposed roadway improvements, and is legally described in "Exhibit A", and illustrated on the parcel location map in "Exhibit B", attached herewith.


County Manager/Deputy Mayor

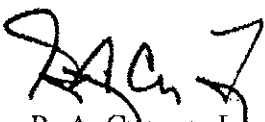


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: May 1, 2012


FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(M)(3)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(3)
5-1-12

RESOLUTION NO. _____

RESOLUTION DECLARING THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 4 FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED IMPROVEMENTS ON OLD CUTLER ROAD FROM SW 97 AVENUE TO SW 87 AVENUE, TO BE A PUBLIC NECESSITY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE AND THE COUNTY ATTORNEY TO TAKE ANY AND ALL APPROPRIATE ACTIONS TO ACCOMPLISH ACQUISITION OF THE SUBJECT PROPERTY IN FEE SIMPLE, BY DONATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, this Board finds and declares the acquisition in fee simple of the property known as Parcel 4 as legally described in "Exhibit A" and shown on the project location map in "Exhibit B" attached hereto and made a part hereof, for the public purpose of improvements to Old Cutler Road from SW 97 Avenue to SW 87 Avenue, to be required and necessary to accomplish such improvements; and authorizes the use of Charter County Transportation Surtax Funds; and

WHEREAS, Miami-Dade County is authorized under the Constitution and laws of Florida, including Chapters 73, 74, 125, 127 and 341, Florida Statutes, and Sections 1.01(A)(1), (2) AND (21), of the Home Rule charter of Miami-Dade County, to acquire said property through eminent domain proceedings,

5

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board ratifies and adopts these matters set forth in the foregoing recitals.

Section 2. This Board finds and declares that the acquisition of the subject parcel, as legally described in "Exhibit A" attached hereto and incorporated herein by reference, is needed for the public purpose of improvements to Old Cutler Road, from SW 97 Avenue to SW 87 Avenue.

Section 3. This Board authorizes and directs the County Mayor or County Mayor's designee and County Attorney to employ appraisers, review appraisers and expert witnesses, to obtain required environmental audits and to take any action to acquire the subject parcel, as legally described in "Exhibit A" in fee simple, either by donation, purchase at values established by appraisals together with reasonable attorneys' fees, expert fees and costs pursuant to Chapters 73.091 and 73.092, Florida Statutes, or eminent domain court proceedings including a declaration of taking as necessary for and on behalf of Miami-Dade County and authorizes the use of Charter County Transportation Surtax Funds.

Section 4. Pursuant to Resolution No. R-974-09, this Board directs the County Mayor or County Mayor's designee to record the instruments of conveyance accepted herein in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of May, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Debra Herman

7

LEGAL DESCRIPTION
(FEE SIMPLE)

PARCEL 4

A portion of Lot 13, Block 14, TENALLA OCEAN FARMS ADDITION, according to the plat thereof recorded in Plat Book 12, Page 40 of the Public Records of Miami-Dade County, Florida; being more particularly described as follows:

COMMENCE at the intersection of the South line of the North 25.00 feet of the Northwest 1/4 of Section 10, Township 56 South, Range 40 East, Miami-Dade County, Florida with the East line of the West 25.00 feet of the Northwest 1/4 of said Section 10, also being the intersection of the North line of said Block 14 with the West line of said Block 14; THENCE South 0°50'53" East along said West line of Block 14 also being the East right of way line of SW 87 Avenue for 342.85 feet to the POINT OF BEGINNING; THENCE North 89°09'07" East, perpendicular to the last described course, for 15.00 feet; THENCE South 0°50'53" East along the East line of the West 40.00 feet of the Northwest 1/4 of said Section 10 for 22.53 feet to the point of curvature of a circular curve concave to the Northeast; THENCE Southeasterly and Northeasterly along the arc of said curve to the left, having a radius of 25.00 feet, through a central angle of 119°54'35", for 52.32 feet; THENCE South 30°45'28" East, along a line radial to the last described curve, for 15.00 feet to the Northwesterly line of the Southeasterly 10.00 feet of said Block 14, also being the Northwesterly right of way line of Old Cutler Road (Ingraham Highway); THENCE South 59°14'32" West, along said Northwesterly right of way line, for 51.69 feet to the intersection with a non-tangent circular curve concave to the Northeast, the radius point of said curve bears North 22°22'21" East from said point of intersection; THENCE Northwesterly and Northerly along said curve to the right, having a radius of 25.00 feet, through a central angle of 66°46'46", for 29.14 feet to the point of tangency with the East line of the West 25.00 feet of the Northwest 1/4 of said Section 10; THENCE North 0°50'53" West along said East line and the East right of way line of SW 87 Avenue for 60.00 feet to the POINT OF BEGINNING.

EXHIBIT A

PROJECT NO. 20100652

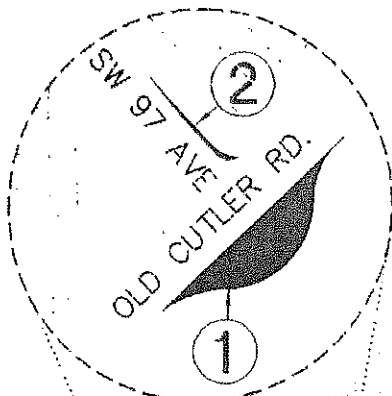
Page 1 of 1

8

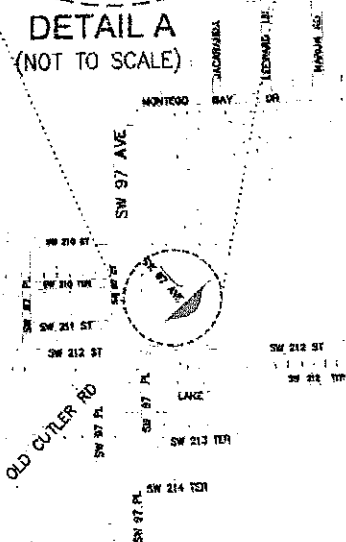


SEC 9-10
TWP 56 S
RGE 40 E

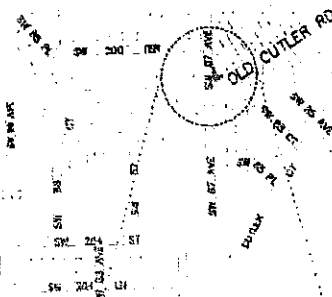
LOCATION MAP
(NOT TO SCALE)



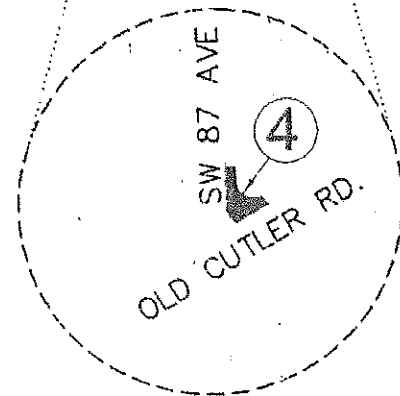
DETAIL A
(NOT TO SCALE)



9-56-40



10-56-40



DETAIL B
(NOT TO SCALE)



PUBLIC WORKS & WASTE MANAGEMENT DEPT.
LAND DEVELOPMENT/RIGHT-OF-WAY DIVISION
ENGINEERING SECTION
111 N.W. 1ST ST. 16TH FLR.
MIAMI, FL. 33128

TO BE ACQUIRED FOR
RIGHT OF WAY



EXHIBIT "B"
(NOT TO SCALE)

9

PROJ. NO. 20060366
PREP. BY: S. BURTON 10/26/10
REVISED BY: R.B./L.E. 11/09/11

NOT A SURVEY



Memorandum



To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Charles Scurr, Executive Director *C. Scurr*

Date: April 20, 2012

Re: CITT AGENDA ITEM 5D:

RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THAT THE BOARD OF COUNTY COMMISSIONERS (BCC), DECLARE THE ACQUISITION OF THE DESIGNATED PROPERTY KNOWN AS PARCEL 4 FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED IMPROVEMENTS ON OLD CUTLER ROAD FROM SW 97 AVENUE TO SW 87 AVENUE, TO BE A PUBLIC NECESSITY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE AND THE COUNTY ATTORNEY TO TAKE ANY AND ALL APPROPRIATE ACTIONS TO ACCOMPLISH ACQUISITION OF THE SUBJECT PROPERTY IN FEE SIMPLE, BY DONATION, PURCHASE AT VALUES ESTABLISHED BY APPRAISALS, OR BY EMINENT DOMAIN COURT PROCEEDING INCLUDING DECLARATIONS OF TAKING, AS NECESSARY AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS (PWWM – BCC Legislative File No. 120565)

On April 18, 2012, the CITT voted (9-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 12-040. The vote was as follows:

Hon. Linda Zilber, Chairperson – Aye
Paul J. Schwiep, Esq., 1st Vice Chairperson – Absent
Hon. Anna E. Ward, Ph.D., 2nd Vice Chairperson – Aye

Christopher Benjamin, Esq. – Absent
David Concepcion – Absent
Glenn J. Downing, CFP® – Aye
Alfred J. Holzman – Aye
Miles E. Moss, P.E. – Aye
Marilyn Smith – Absent

Harold Braynon, Jr. – Absent
Joseph Curbelo – Aye
Peter L. Forrest – Aye
Prakash Kumar – Aye
Hon. James A. Reeder – Aye

cc: Alina Hudak, Deputy Mayor/County Manager
Bruce Libhaber, Assistant County Attorney
Alexander Bokor, Assistant County Attorney

10